

(1964) 03 MAD CK 0053
In the Madras High Court
Case No : C.R.P. No. 1074 of 1963

Rajamannar and others

APPELLANT

Vs

The State of Madras and others

RESPONDENT

Date of Decision : 18-03-1964

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 1 Rule 10, 151
Land Acquisition Act, 1894 — Section 18, 18, 19, 19, 20, 20

Citation : (1965) ILR (Mad) 310

Hon'ble Judges : Ramakrishnan, J

Bench : Single Bench

Advocate : V. Seshadri and G. Viswanathan, for the Appellant; A. Seshadri, for the Respondent

Final Decision : Dismissed

Judgement

Ramamurti, J.—In certain land acquisition proceedings reference was made by the Collector under S. 18 of the Land Acquisition Act to the City Civil Court, Madras, for determination of a specific objection, as to the amount of compensation, taken before him by the second respondent Pattabhirama Reddiar, who did not accept the award. The petitioners, four in number, did not file objection to the award under S. 18 of the Land Acquisition Act, though they had appeared in the land acquisition proceedings at some anterior stage. The claim in an application filed by them under O. 1, R. 10, C.P.C., and S. 151 C.P.C., before the City Civil Court that the acquired land belonged to an undivided joint Hindu family, that they represented one branch of it while respondents 2 to 6 represented another branch, and that consequently they should be made parties to the reference under S. 18 of the Land Acquisition Act pending before the City Civil Court, Madras. The lower Court found that the petitioners had not proved even on prima facie grounds that they constituted members of a joint family interested in the land in dispute. Secondly, it adopted the decision of the Andhra Pradesh High Court in Ibrahim Sahib v. Land Acquisition Officer AIR 1958 A.P. 226 in which it was held that a person who had not filed an application to the

Collector for reference under S. 18 of the Land Acquisition Act was not entitled to ventilate his own grievances against the award in the civil Court which deals with the reference. The lower Court rejected the application. Against this decision the present revision petition is filed by the petitioners. The scheme contained in Part III of the Land Acquisition Act?Ss. 18 to 28?provides for the exercise of a special jurisdiction by the civil Court, and the scope of this jurisdiction is strictly circumscribed by the appropriate provisions contained in this Part. S. 18 gives the right to "a person interested" who has not accepted the award, to state the grounds of his objection, and make a written application within the prescribed time limit to the Collector, requiring him to refer the subject matter of his objection to the civil Court for decision. "A person interested" has been defined in S. 3 (b) of the Act as including all persons claiming an interest in the compensation and the term also includes a person who is interested in an easement affecting the land. In making the reference, the Collector is required to give the particulars mentioned in S. 19 of the Act and among the particulars are included the names of the persons whom he has reason to think are interested in such land. S. 20 requires the Court to give notice of the hearing of the objection (a) to the applicant, (b) to all persons interested in the objection except such (if any) of them as have consented without protest to receive payment of the compensation awarded and (c) if the objection is in regard to the area of the land or to the amount of the compensation, to the Collector. S. 21 of the Act restricts the scope of the enquiry to a consideration of the interests of the persons affected by the objection. S. 23 lays down certain principles for determining the amount of compensation. S. 53 says that save in so far as the may be inconsistent with anything contained in this Act, the provisions of the Civil Procedure Code, shall apply to all proceedings before the Court under this Act. No doubt O. 1, R. 10 on which the petitioners have relied, permits the Court at any stage of the proceedings to add as plaintiff or defendant any person whose presence before the Court may be necessary, in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit (S. 20 of the Land Acquisition Act specifically gives a list of persons on whom the Court is required to serve a notice before determining the objection). The jurisdiction of the civil Court under Part III of the Land Acquisition Act being a special jurisdiction, its powers must be spelt out from the terms of the Land Acquisition Act itself. S. 21 of the Land Acquisition Act specifically confines the scope of the enquiry before the Special Tribunal to a consideration of the interests of the persons affected by the objection. The question, therefore, for determination is who are the persons affected by the objection raised under S. 18 of the Act. On an a priori reasoning it may be held that all persons interested within the meaning of S. 3 (v) of the Land Acquisition Act, already referred to, would be affected by the objection, but a careful perusal of the sections in Part III of the Act, would show that that is not the meaning intended to be given to the terms "persons affected by the objection." To find out who are the persons affected by the objection, one can look at S. 20 of the Act, which provides for the category of persons to whom notice of the hearing by the

Court, is required to be given. They are: the applicant and all persons interested in the objection except such of them as have consented to receive payment of the compensation amount awarded. In other words, the persons interested in the objection are those who, besides the applicant, have taken a stand similar to his by supporting his objection before the Collector. S. 20 (c) indicates that if the objection is in regard to the area of the land or to the amount of the compensation, the Collector is deemed to be a person affected by the objection and the interests of the Government represented by the Collector would also be within the scope of the enquiry. So the question whether a person is affected by the objection or not, has to be decided by the civil Court, that is, the Special Tribunal, with reference to the stand taken by him before the Collector, at the time of passing the award, or who has expressed his attitude to the award by filing a written objection before the Collector within the time prescribed in S. 18 of the Act. If, on the other hand, he is a person who has not expressed any objection, but has consented to receive the amount of compensation awarded, he will not be a person affected by the objection. As pointed out by the Andhra Pradesh High Court in *Ibrahim Sahib v. Land Acquisition Officer* AIR 1958 A.P. 226, a person interested in the objection is not the same as a person interested in the land ; nor does it refer to persons interested in the success of the objection. According to the Andhra Pradesh High Court the mere fact that a person is brought before the Court as a non-applicant party does not entitle him to ventilate his own grievances against the award when he himself has not filed an application to the Collector for a reference under S. 18 of the Act. For the above view, the Andhra Pradesh High Court followed the decision of this Court in *Narayana v. Annapuranamma* ILR 1941 Mad. 753 = 53 L.W. 463 where it has been held that (1) a party who raised no objection to the apportionment of the compensation made by the Collector must be taken to have accepted the award in that respect and (2) under Ss. 18, 20 and 21 of the Act, all that the Court can deal with, is the objection, which has been referred to it and it cannot go into a question raised for the first time by a party who had not raised any objection under S. 18 of the Act. The above discussion would show that on a reference under S. 18, the Court is required to hear only (1) an objection which had been raised before the Collector in accordance with the formalities prescribed in S. 18 and (2) the contentions of only such persons who are interested in the objection. The term "person interested in the objection" is not equivalent "to a person interested" within the meaning of S. 3 (b) of the Act, but has to be interpreted with reference to the stand taken by him in respect of the award, within the time limit prescribed in S. 18, when he is required to elect whether he has accepted the award or not.

2. Before the lower Court, the decision of the Kerala High Court in *State Vs. Narayani Pillai Kuttiparu Amma and Another*, was referred to. There are certain observations in the course of the judgment, which apparently were relied upon in the lower Court by the petitioner. For example, there is an observation at page 133 which says: Where the award is in favour of several persons having no

separate and distinct interest in the property acquired, all of them may be said to be interested in the objection raised by one or more of them to the award made by the Land Acquisition Officer. In such a case the objection may be deemed to have been made on behalf of all. Similarly, if one of several persons having only a joint and undivided interest in the property acquired is competent to represent the interests of all of them, the objection by him to the award and the consequent reference to the District Court would enure to the benefit of all of them. But the position will be entirely different if each of them has a distinct and separate interest in the property acquired and no one of them is entitled in law to represent the others as in the present case.

These observations would appear to indicate that if at the stage of the award there are a group of several persons having only a joint and undivided interest in the property acquired, in such a case the objection made by one person competent to represent the interests of all would enure to the benefit of all. The lower Court has found on the facts that the petitioners had not proved that they and respondents 2 to 6 who were before the Land Acquisition Officer, constituted a joint family with a common interest. The specific sections of the Land Acquisition Act in Part III circumscribe the scope of the enquiry and specify the persons who should be made parties to the enquiry. It is not permissible to go beyond the terms of these sections, and infer that a person who did not prefer his objection to the award within the time limit prescribed in S. 18, is a person interested in the objection within the meaning of S. 20 (b) of the Act, and therefore, a person affected by the objection within the meaning of S. 21 of the Act. It will not be permissible to take into account at the enquiry the representations of persons who have never applied after the passing of the award within the time limit fixed by the statute, stating whether they accepted the award or were objecting to it. I therefore confirm the decision of the lower Court and dismiss this petition with costs of respondents 2 to 6.